

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW HAMPSHIRE

Deborah Richer)	
v.)	
	Plaintiff)
)
Taco Bell Corp.)	
)
	Defendant)
And)	
)
Charter Foods North, LLC)	
)
	Defendant)
)

Notice of Removal

Defendant Charter Foods North, LLC (“Charter”), by its attorneys Devine, Millimet & Branch, P.A., hereby removes the state court action, captioned *Deborah Richer v. Taco Bell Corp. and Charter Foods North, LLC*, currently pending in the Superior Court of the State of New Hampshire, Hillsborough Country, Northern District, Case No. 216-2021-CV-00398 (“State Court Action”), to this Court pursuant to 28 U.S.C. §§ 1441 and 1446. The grounds for removal are as follows:

Short and plain statement of grounds for Removal

1. This action is removable, pursuant to 28 U.S.C. §§ 1332 and 1441(a) and (b), on the grounds that this Court has original diversity jurisdiction and the amount in controversy exceeds \$75,000.
2. On or about June 25, 2021, Plaintiff filed her Complaint for Negligence in the State Court Action (“Complaint”) in the Hillsborough County Superior Court, Northern District,

seeking damages. The Complaint names Charter as a defendant. Charter first received the Complaint by e-mail to its counsel on July 14, 2021.

3. Attached as Exhibit A are the Defendant's Summons, Notice of Service, State Court Complaint, and State Court Answer. These documents constitute all "processes, pleadings and orders" served upon Charter in the State Court Action to date. 28 U.S.C. § 1446 (a).

4. Upon information and belief, at the time of commencement of the State Court Action, Plaintiff Deborah Richer ("Richer") resided at 83 Goffe Street, Manchester, New Hampshire 03102.

5. At the time of commencement of the State Action, Plaintiff alleges Defendant Taco Bell Corp., was a corporation organized and existing under the laws of the State of California, with a principal place of business located at 1 Glen Bell Way, Irvine, California 92618.

6. Charter is a limited liability company with four members: Robert Jenkins; Bradley Jenkins; Diana Seaver; and Kathy England.

7. At the time of commencement of the State Court Action, Robert Jenkins resided in Tennessee, and is therefore a citizen of Tennessee for jurisdictional purposes.¹

8. At the time of commencement of the State Court Action, Bradley Jenkins resided in Tennessee, and is therefore a citizen of Tennessee for jurisdictional purposes.²

9. At the time of commencement of the State Court Action, Diane Seaver resided in Tennessee, and is therefore a citizen of Tennessee for jurisdictional purposes.³

10. At the time of commencement of the State Court Action, Kathy England resided

¹ See *Pramco, LLC v. San Juan Bay Marina, Inc.*, 435 F.3d 51, 54 (1st Cir. 2006).

² See *id.*

³ See *id.*

in Tennessee, and is therefore a citizen of Tennessee for jurisdictional purposes.⁴

11. There is complete diversity of citizenship between the parties.

12. The Complaint alleges negligence, and Plaintiff seeks an award of damages against Charter for shoulder, hip, knee, and head injuries; physical and mental pain and suffering; medical expenses; economic damages; and damages for loss of enjoyment of life. Plaintiff also seeks an award of interest and costs. Because the amount in controversy exceeds \$75,000⁵ and there is complete diversity of citizenship, this Court may exercise diversity jurisdiction pursuant to 28 U.S.C. § 1332.

13. Hillsborough County Superior Court, Northern District, is located within the district of the United States District Court for the District of New Hampshire. Therefore, venue is proper in this Court. 28 U.S.C. § 1441(a).

14. This Notice of Removal is being filed within 30 days after receipt by Charter of notice of the State Court Action complaint not through service but otherwise, and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

15. Pursuant to 28 U.S.C. § 1446 (d), written notice of the filing of this Notice of Removal will be served promptly upon Plaintiff and, together with a copy of the Notice of Removal, will be filed in the Hillsborough County Superior Court, Northern District.

16. Charter will ensure that a certified copy of the State Court Action record is filed with this Court within fourteen (14) days after filing this Notice of Removal. *See L.R. 81.1(c).*

⁴ See *id.*

⁵ Consistent with New Hampshire Practice, the Complaint does not seek a specific amount of damages. However, removal from state court is proper where “it is facially apparent from the complaint that the amount in controversy exceeds the jurisdictional requirement.” *Oum v. Target Corporation*, 18-cv-341-LM, at p. 2 (D.N.H. June 12, 2018) (quotations omitted). In her Complaint, Plaintiff alleges that as a result of a fall, she sustained “severe, painful and permanent injuries.” Exhibit A, (Complaint), ¶ 12. Specifically, Plaintiff suffered and “severely injur[ed] her left shoulder, hip and knee and head.” *Id.* at ¶ 7. Further, Plaintiff seeks damages for pain and suffering and loss of enjoyment of life, and seeks to recover interest and costs. Consequently, Plaintiff’s claim can be valued at more than \$75,000.

17. Charter hereby notifies the Court and Plaintiff that it demands a jury trial on all claims so triable.

WHEREFORE, Defendant Charter Food North, LLC prays this action proceed in this Court as an action properly removed thereto.

Respectfully submitted,

Charter Foods North, LLC

By its Attorneys,

DEVINE, MILLIMET & BRANCH, P.A.

Dated: August 10, 2021

By: /s/ Joseph G. Mattson

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